IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 11TH MAY 2007 / 21ST VAISAKHA 1929

WP(C).No. 14638 of 2007(P)

PETITIONER:

GIREESH.T.K., THAROLAKKANDY HOUSE,
POST MOOLAD, NADUVANNUR, KOZHIKODE DISTRICT.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY
SECRETARY, MINISTRY OF EXTERNAL AFFAIRS,
NEW DELHI.

2. REGIONAL PASSPORT OFFICER,
REGIONAL PASSPORT OFFICE, KOZHIKODE.

3. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, (CRIME NO.300 OF 2002 OF PERAMBRA
POLICE STATION).

BY GOVERNMENT PLEADER SMT.BINDU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 14638 OF 2007
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Dated this the 11th day of May, 2007

J U D G M E N T

The petitioner was an accused in crime No.300/02 along with three other persons. The case was ultimately chargesheeted before the court of Judicial Magistrate, I Class I, Perambra as CC No.294/02. In the meanwhile, the petitioner is stated to have got employed abroad and as he was not available before the court for trial, the charge against him was split up and was re numbered as CC No.175/07. It was while so that the petitioner, who continues to be employed abroad, landed in the Calicut Airport on 22/2/07. In terms of the provisions contained in Passport Act 1967, the Emigration Authorities seized his passport and has kept the same in their safe custody.

2. Subsequently, the petitioner got himself enlarged on bail and Ext.P3 is an order passed by the Court on 24/4/2007 exempting him from personal appearance. It is stated that he has to rejoin on duty on 16/5/2007 and that he has made all arrangements for his return travel as is evident from his air ticket

produced as Ext.P4. However, in view of the fact that the passport is still under the custody of the second respondent, he will not be able to return to his employment. In the aforesaid circumstances, this writ petition has been filed praying for directing release of his passport in order to enable him to return to his place of employment.

3. On behalf of the 2nd respondent, instructions have been taken by the Assistant Solicitor General and they seek to justify the seizure of the passport and its retention. Although the respondents cannot be faulted for the steps they have taken, in the written instruction itself it is stated that if there is a specific order of this court exempting the petitioner from his personal presence, the passport could be released. This evidently means that the 2nd respondent is unaware of the exemption order passed by the court, which has been produced by the petitioner as Ext.P3.

4. In the light of Ext.P3 and instructions of the 2nd respondent as stated above, this writ petition is disposed of directing the 2nd respondent to consider the request of the

petitioner for release of the passport taking into account Ext.P3 order passed by the Criminal Court. Taking into account the fact that the petitioner has to rejoin for duty on 16/5/2007, the 2nd respondent shall pass orders as stated above as expeditiously as possible.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp